

1-1-1985

## Washington report, vol. 14 no.30, September 30, 1985

American Institute of Certified Public Accountants.

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### Recommended Citation

American Institute of Certified Public Accountants., "Washington report, vol. 14 no.30, September 30, 1985" (1985). *Newsletters*. 1022.

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# AICPA *Washington Report*

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COMMERCE, DEPARTMENT OF

Amendments to the Commerce Acquisition Regulation and the Federal Acquisition Regulation implementing the protest provisions of the Competition in Contracting Act of 1984 has recently been proposed by the Commerce Department (see the 9/25/85 Fed. Reg., pp. 38677-82). The proposal seeks to establish procedures for expanding contracting and subcontracting opportunities for women-owned small businesses; recover administrative costs in the event of contractor default; and establish a dollar threshold for using formal source selection procedures. Additionally, the proposal amends CAR by adding citations to internal Department procedures for oversight reviews of contracting activities and reporting fraudulent claims and misrepresentations. Comments are requested by 11/8/85. For further information contact John Dammeyer at 202/377-4248.

FEDERAL HOME LOAN BANK BOARD

Corporate governance regulations of federal associations will be revised extensively under a FHLBB proposal (see the 9/25/85 Fed. Reg., pp. 38832-39). Because of the magnitude of the revisions, the proposal will be issued in four separate parts. Part I would provide proposed definitions and set forth rules for the organization and incorporation of federal associations. Part II would contain provisions regarding federal stock associations and federal mutual associations. Part III would propose revisions to the rules governing operations of and conversion to federal associations. Part IV would contain provisions regarding conservators, receivers, trust powers, miscellaneous provisions, Board rulings and statements of policy. Comments are requested by 11/18/85. For further information contact David A. Permut at 202/377-6962

Disclosure and financial statements pertaining to the offer or sale of certain securities by particular institutions would have to conform to certain requirements under a proposed rule by the FHLBB (see the 9/25/85 Fed. Reg., pp. 38839-55). The proposed rule would apply to: "insured institutions", as defined under the FHLBB's Insurance Regulations; federally-chartered insured institutions in organization; or state-chartered institutions which are approved for insurance of accounts by the FSLIC within one year of an offer or sale of the institutions' securities. These institutions' disclosure statements would have to be comparable to such statements by savings and loan holding companies, whose securities are registered with the SEC. In addition, financial statements would be required to conform to the FHLBB's offering-circular accounting requirements, Subpart A of Part 563g, and to the extent they are not inconsistent, the account requirements of Regulation S-X of the SEC and the financial information requirement of Regulation S-K. Comments are requested by 11/18/85. For further information contact John P. Harootunian at 202/377-6415.

TRANSPORTATION, DEPARTMENT OF

Richard M. Ferry, CPA has been appointed to serve on the Board of Directors of the National Railroad Passenger Corporation (Amtrak) by Transportation Secretary Elizabeth Hanford Dole. Mr. Ferry is co-founder, president and director of Korn/Ferry International, a worldwide executive search firm. Additionally, he founded Continental American Properties, a San Diego based real estate development and property management company, and a member of the Board of Directors of First Business Bank and Deauville, Inc. Prior to forming Korn/Ferry, Mr. Ferry was a partner in the Los Angeles office of Peat, Marwick, Mitchell & Co. In making the appointment Secretary Dole stated, "I know Mr. Ferry will be a valuable member to the Board, he is prepared to address the important issues facing Amtrak." Mr. Ferry received his B.S. degree in accounting with honors from Kent State University.

TREASURY, DEPARTMENT OF

Determination letter statistics for various employee benefit plans from 1/85-6/85 were recently released by the IRS. The IRS reports a total of 14,205 qualified initial applications for defined contribution plans which include 202 stock bonus plans, 4,015 money purchase plans, 207 target benefit plans, 9,648 profit sharing plans and 133 ESOPs. Qualified initial applications for 7,303 defined benefit plans were also reported. The IRS notes that these cannot be used to compute the total number of plans in existence because employers are not required to apply to the IRS for an advance determination to obtain favorable tax benefits for qualified plans. For further information contact the IRS Public Affairs Office at 202/566-4024.

Regulations relating to the election to expense certain depreciable business assets is the subject of an impending proposed rule by the IRS (see the 9/26/85 Fed. Reg., pp. 39018-24). The IRC sections amended by the proposed rule pertain to dollar limitation, controlled groups, partnerships and S corporations, adjustments to basis and recapture. Generally, the amendments would be effective for property placed in service after 12/31/80, in taxable years ending after that date. However, the amendments made by the Subchapter S Revision Act of 1982 would be effective for taxable years beginning after 12/31/82. Comments are requested by 11/11/85. For further information contact John Broadbent at 202/566-3287.

SPECIAL: AICPA TO TESTIFY ON REPEAL OF GENERAL UTILITIES DOCTRINE

Testifying on 9/30/85 before the Senate Finance Subcommittee on Taxation and Debt Management, the AICPA will oppose the repeal of the General Utilities doctrine as well as the proposed relief provisions contained in the Senate Finance Committee Staff's Report on Subchapter C reform. According to the statement prepared by the AICPA's Federal Tax Division, basis adjustments will impose an administrative burden, and relief should not be limited to small firms. Commenting generally on the Finance recommendations, the AICPA believes that "enactment of the provisions will be unnecessarily disruptive to legitimate business transactions during the protracted period that will be required to absorb and digest the new rules." The proposal to make corporate level tax consequences elective "represents a major innovation" but "loses any practical significance" if enacted as part of a bill repealing the General Utilities doctrine, the statement maintains. Further, acquiring firms would be unlikely to agree to assignment of a cost basis to transferred assets where such an election requires an immediate tax payment, the Institute explains. Sen. Robert Dole (R-KS) majority leader and former Finance Committee chairman, initiated the Subchapter C reform project in October 1982. The Finance Committee released a preliminary report and held hearings in 1983. Portions of the preliminary report's recommendations were included in the 1984 tax act, including repeal of the General Utilities doctrine as it related to non-liquidating distributions. The final report recommended total repeal but proposed relief provisions for firms with \$1 million or less in assets. Under the relief proposal, each shareholder of a small firm would be allowed a basis adjustment for stock in the liquidation corporation to reflect the corporate level tax on assets held five years or longer.

SPECIAL: FINANCE COMMITTEE TO LOOK AT IMPACT OF PRESIDENT'S TAX PROPOSAL ON ENTERTAINMENT EXPENSES AND TAX ACCOUNTING PROCEDURES

Business meals, entertainment expenses and tax accounting procedures will be the subjects considered at a Senate Finance Committee hearing scheduled for 10/4/85. Sen. Packwood (R-OR), chairman of the committee, said, "As part of our continuing series on aspects of the President's tax reform proposal, we feel it important to examine business meals, entertainment expenses and the broad issue of tax accounting procedures and practices in the Committee on Finance." The hearing will be held at 9:30 a.m. in room SD-215 of the Dirksen Senate Office Building.

SPECIAL: LEGISLATION INTRODUCED ON FILING OF FORM 5500-C

Legislation intended to relieve one-person Keogh plan owners from the requirement of filing Form 5500-C, which is generally filed by corporate pension plans was recently introduced by Rep. David Dreier (R-CA). The filing of Form 5500-C by the self-employed according to Rep. Dreier is "clearly an onerous and unjustified paperwork requirement." Further, according to the measure's sponsor, "the self-employed have neither the time nor resources afforded a large corporation to fill out this form. Second, the IRS has not even made it clear what it is they expect to find. The need for additional information is not a legitimate reason to force thousands of self-employed small business people to pay as much as \$150 per plan to have these forms professionally prepared to prevent paying a \$25 per day penalty for late or inaccurate compliance. The legislation, HR 3292, has been referred to the Ways & Means Committee; however, hearings have not yet been scheduled.

SPECIAL: NAM AND NEW YORK STATE BAR ASSOCIATION SUPPORT RICO CHANGE

The Racketeer Influenced and Corrupt Organizations Act (RICO) was the subject of a 9/24/85 hearing conducted by the Senate Judiciary Committee. Testifying on behalf of the New York State Bar Association, Mr. Richard Swanson stated that practitioners experienced with RICO for both plaintiffs and defendants agree that "something must be done to change the civil remedy provisions of the current law." Mr. Swanson testified that although remedies for common law fraud and securities fraud are adequate, modifications must be made to civil RICO such as requiring a prior criminal conviction in instances of mail fraud, wire fraud and fraud in the sale of securities. Mr. John M. Finch, appearing as Chairman of the National Association of Manufacturers Subcommittee on Corporate Finance and Management and the NAM RICO Task Force, urged alteration of the current law to limit the focus to cases that involve criminal activity, and "halting the current use of this statute against legitimate business persons and corporations." Mr. Finch further stated that NAM concurred with the Department of Justice position regarding RICO reform legislation. Mr. John D. Keeney, Deputy Assistant Attorney General of the Criminal Division at the Justice Department appeared before the House Criminal Justice Subcommittee on 9/18/85. During Mr. Keeney's oral testimony he stated that the Justice Department could support an amendment requiring "prior criminal conviction" if federal and state prosecutors were exempted. Mr. Keeney also gave Justice Department support for the general elimination of treble damages and attorney fees under the RICO civil section, with the same exemption requirement for the federal and state governments.

For additional information contact Gina Rosasco, Shirley Hodgson or Nick Nichols at 202/872-8190.

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